



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy and Discount LLC

Respondent Name

Zurich American Insurance Company

MFDR Tracking Number

M4-16-3578-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

August 1, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The insurance carrier, Gallagher Bassett, failed to take final action within the 45-day period set forth in TAC §134.240. Specifically the claim was submitted on 5/2/16 and it was received by the provider on 5/9/16 ... and no action was taken on the claim. Sentrix made a good faith effort to notify the carrier of their failure to respond to the bill on 6/23/16 and it was received by the provider on 6/29/16 ... Again, no action was taken on the claim."

Amount in Dispute: \$1,194.10

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "DCN's 2016181F9045013, 2016181F9045012, 2016181F9045011, and 2016181F9045010 were REJECTED and not sent for Bill Review. DCN 2016181F9045009 was sent for Bill Review but the charges were denied.

All charges have been denied and DCN's were REJECTED because the provider has billed dates of service that are prior to the claimant's date of injury. The provider has listed date of service 5/2/16 on the table of disputed services, but the actual bill dates on the documentation show 5/2/15 with only a few charges for date of service 5/2/16."

Response Submitted by: Gallagher Bassett Services, Inc.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 2, 2016	Pharmacy Services – Compound Cream	\$1,194.10	\$1,194.10

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.2 defines terms used in the medical billing and processing chapter.
3. 28 Texas Administrative Code §133.200 sets out the insurance carrier's procedures for receipt of medical bills.
4. 28 Texas Administrative Code §133.240 sets out the procedure for medical bill processing by the workers' compensation insurance carrier.
5. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
6. 28 Texas Administrative Code §134.503 sets out the fee guideline for pharmacy services.
7. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
8. Submitted documentation does not include explanations of benefits.

Issues

1. What are the services in dispute?
2. Did Zurich American Insurance Company return the pharmacy bill to Sentrix Pharmacy and Discount LLC in accordance with 28 Texas Administrative Code §133.200?
3. Did American Zurich Insurance Company reduce or deny the disputed services not later than the 45th day after receiving the medical bill?
4. Is Sentrix Pharmacy and Discount LLC entitled to reimbursement for the disputed services?

Findings

1. Sentrix Pharmacy and Discount LLC (Sentrix) is seeking reimbursement of \$1,194.10 for a compound cream dispensed on date of service May 2, 2016 with the following ingredients:
 - Ketoprofen, NDC 38779007805, 12.0 grams
 - Lidocaine, NDC 38779008208, 6.0 grams
 - Amitriptyline, NDC 38779018908, 2.4 grams
 - Baclofen, NDC 38779038808, 4.8 grams
 - Clonidine, NDC 38779056105, 0.24 grams
 - Gabapentin, NDC 38779246108, 6.0 grams
 - Versatile Base, NDC 51552134308, 72.96 grams
 - Amantadine, NDC 38779041109, 9.6 grams
 - Dimethyl Sulfoxide, NDC 38779061409, 6.0 milliliters
2. In its position statement, Zurich American Insurance Company (Zurich) asserted that some of the bills "were REJECTED because the provider has billed dates of service that are prior to the claimant's date of injury." 28 Texas Administrative Code §133.200 provides that the insurance carrier may return an **incomplete** medical bill as defined by 28 Texas Administrative Code §133.2(4), to the health care provider with a "(b) ... document identifying the reason(s) for returning the bill. The reason(s) related to the procedure or modifier code(s) shall identify the reason(s) by line item."

28 Texas Administrative Code §133.307(d)(2)(E) requires the respondent to provide any missing documentation relevant to the dispute that is known to the insurance carrier. Evidence submitted to the division does not include documentation to support that the Zurich returned the pharmacy bill to Sentrix in accordance with 28 Texas Administrative Code §133.200.
3. Sentrix contends that Zurich "failed to take final action within the 45-day period set forth in TAC §134.240." Furthermore, in its reconsideration request, Sentrix also alleges that "Sentrix has not ... received any sort of notification or EOBR."

According to Texas Labor Code Sec. 408.027(b), Zurich was required to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Sentrix. Corresponding 28 Texas Administrative Code §133.240(a) also required Zurich to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day. 28 Texas Administrative Code §133.2(6) defines final action as follows:

(6) Final action on a medical bill—

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
- (B) denying a charge on the medical bill.

The position statement submitted by Gallagher Bassett on behalf of Zurich supports that Zurich received a medical bill for the service in dispute. Zurich was therefore required to take the following actions:

- 28 Texas Administrative Code §133.240(a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill.
- 28 Texas Administrative Code §133.240(e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:
 - (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

All workers compensation insurance carriers are expected to fulfill their duty to take final action as required by the divisions Laws and adopted administrative rules. The division finds that:

- no evidence was presented to the division to support that Zurich took final action by paying, reducing, or denying the services in dispute within 45 days; and
- no evidence was presented to the division to support that Zurich timely presented **any** defenses to Sentrix on an explanation of benefits as required under 28 Texas Administrative Code §133.240.

Zurich's failure to timely issue an explanation of benefits to Sentrix creates a waiver of defenses that Gallagher Bassett raised in its response to medical fee dispute resolution under 28 Texas Administrative Code §133.307(d)(2)(F):

The [carrier's] response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review...

Absent any evidence that Zurich raised defenses that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C and Chapter 134, Subchapter F, the division concludes that the defenses presented in Zurich's position statement, as submitted by Gallagher Bassett, shall not be considered for review because those assertions constitute new defenses pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

4. 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or

- (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2).

Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amount §134.503(c)(2)	Lesser of (c)(1) and (c)(2)
Ketoprofen	38779007805 Generic	\$10.45	12.0 gm	$\$10.45 \times 12 \times 1.25 = \156.75	\$125.38	\$125.38
Lidocaine	38779008208 Generic	\$4.275	6.0 gm	$\$4.275 \times 6 \times 1.25 = \32.07	\$25.67	\$25.67
Amitriptyline	38779018908 Generic	\$18.24	2.4 gm	$\$18.24 \times 2.4 \times 1.25 = \54.72	\$43.82	\$43.82
Baclofen	38779038808 Generic	\$35.63	4.8 gm	$\$35.63 \times 4.8 \times 1.25 = \213.78	\$171.00	\$171.00
Clonidine	38779056105 Generic	\$206.625	0.24 gm	$\$206.625 \times 0.24 \times 1.25 = \61.99	\$46.69	\$46.69
Gabapentin	38779246108 Generic	\$59.85	6.0 gm	$\$59.85 \times 6 \times 1.25 = \448.88	\$359.07	\$359.07
Versatile Base	51552134308 Generic	\$2.50	72.96 gm	$\$2.50 \times 72.96 \times 1.25 = \228.00	\$182.46	\$182.46
Amantadine	38779041109 Generic	\$24.225	9.6 gm	$\$24.225 \times 9.6 \times 1.25 = \290.70	\$232.61	\$232.61
Dimethyl Sulfoxide	38779061409 Generic	\$1.24	6.0 ml	$\$1.24 \times 6 \times 1.25 = \9.30	\$7.40	\$7.40
Total						\$1,194.10

The total reimbursement is therefore \$1,194.10. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,194.10.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,194.10, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

December 13, 2016
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.